

REMARKS

Claims 1-35 are pending are pending in this application. Applicant has amended claims 1-2, 6-8, 10, 12, 16-18 and 20 to address typographical errors and stylistic preferences. Applicant also has added new claims 21-35. No new matter has been added by way of these amendments.

The Examiner rejected claims 1-20 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,788,980 issued to Johnson. In essence, the Examiner compares Figure 2 of Johnson and the native configurator to the claimed first computing device and the claimed methods. Applicant respectfully traverses the Examiner's rejection. In summary, Johnson does not teach, suggest, or motivate one or more aspects of the claims, including the use of state information by a first computing device to selectively initiate execution of a software application by itself or by a second computing device. Applicant also has presumed that the Examiner's references to "Tadokoro" were intended as references to Johnson, as Applicant was unable to find a "Tadokoro" reference in the record.

Specifically, each of Applicant's independent claims (and by virtue of their incorporation, the dependent claims) before and after amendment, recite language that is directed to selectively initiating execution of a software application by a first or a second device based upon a state of each device, which is nowhere present in Johnson. In particular, independent claim 1 recites:

... a first computing device [configured to]:  
    selectively initiat[e] execution of a software application by one of:  
        the first computing device if a state of at least one of the first  
        computing device and a second computing device is a first state; and  
        the second computing device if the state is a second state, the  
        software application being associable with one or more software objects.

Similarly, independent claim 7 recites:

... a first computing device [configured to]  
    ... selectively initiate execution of the software object by one of:  
        the first computing device if a state of at least one of the first  
        computing device and a second computing device is a first state; and  
        the second computing device if the state is a second state.

Also, independent claim 11 similarly recites:

... selectively initiating execution of a software application by one of:  
    the first computing device if a state of at least one of the first computing device and a second computing device is a first state; and  
    the second computing device if the state is a second state, the software application being associable with one or more software objects.

In addition, independent claim 17 recites:

... in response to a request for initiating execution of the software object, independent of the software application, selectively initiating execution of the software object by one of:  
    the first computing device if a state of at least one of the first computing device and a second computing device is a first state; and  
    the second computing device if the state is a second state.

Nowhere in Johnson is the language recited in the above independent claims taught, suggested, or motivated. The Examiner cites to the description of Figure 2 of Johnson and the description of Device Configuration and Management beginning on Column 16, line 16. However, the Examiner does not identify particular devices in Johnson that correspond to the claimed first and second computing devices and their associated states. Contrary to the Examiner's suggestion, Johnson does not even discuss a first computing device selectively initiating execution based upon a state as claimed.

Rather, Figure 2 of Johnson illustrates a control system having an enterprise server 52, which executes "enterprise-level applications," a plant server 56, which executes "plant-level control applications," first and second thin clients 54, 58, whose actual processing activity is limited to user input and output, and a controller 60 that controls non-native field devices 64. See Johnson at Column 6, line 21 through Column 7, line 28. None of these devices can serve as the claimed "first computing device" because there is no teaching, suggestion or motivation that any of these devices "selectively initiate execution of a software application" by itself or by a second computing device, let alone a device which makes such a selection based on state information. Thus, it is unclear what devices in Figure 2 could even arguably serve as the claimed first computer device. Moreover, while Johnson describes bulletin boards where devices

record their presence and their current "state of operation," this information is used for display and diagnostic purposes, not for selectively initiating execution of software applications. See Johnson at Column 15, line 64 through Column 16, line 15. Thus, there is no suggestion that this state information is used *by a first computing device to selectively initiate execution of a software application by itself or by a second computing device*.

Also, Johnson notes that a native configurator (ADE) is used to configure native devices and that non-native devices are configured by a service that encapsulates the native commands and passes them through a native device to a foreign device. See Column 16, lines 43-62. To the extent the Examiner believes that the native configurator is the claimed first device, there is no teaching or suggestion in Johnson that the native configurator (or even the service) selectively *initiates execution of a software application* by itself or by a second computing device based on *a state of* a first or a second computing device, as recited in claims 1, 7, 11 and 17.

Nor is there any teaching or suggestion that the software application that is selectively executed is "a software application being associable with one or more software objects," (or similar language) as recited in claims 1, 7, 11 and 17. It appears that the Examiner is relying on the description of the types of communications and messages handled by the control system 10 of Johnson as disclosing a software application associated with software objects. See Johnson at Column 21, line 55 through Column 22, line 57. However, even assuming the Examiner has correctly interpreted the cited portion of Johnson, the Examiner improperly assumes that the native configurator is the first device, which performs selectively initiating execution, and is somehow involved in or related to the handling of data transfers and messages by the control system 10. There is no suggestion that the native configurator discussed in Johnson at Column 16, lines 16-62 is involved in the data transfers and messages discussed in Johnson at Column 21, line 55 through Column 22, line 57. They are separate portions of the system that handle separate functions. Thus, the native configurator cannot selectively initiate execution of the control system as presumed to be implied by the Examiner, let alone selectively initiate based upon state information.

Accordingly, because Johnson does not teach or suggest one or more of the aspects of *a first computing device* configured to *selectively initiate* execution of a *software application* by *itself* or *another device* based upon *state information*, Johnson cannot anticipate claims 1, 7, 11 and 17. Similarly, because dependent claims 2-6, 8-10, 12-16 and 18-20 incorporate these aspects by virtue of their dependencies, claims 2-6, 8-10, 12-16, and 18-20 also are not anticipated by Johnson for at least the reasons set forth above.

In addition, the dependent claims are not taught, motivated or suggested by Johnson for further reasons. For example, dependent claims 3, 9, 13 and 19 recite, “the state is a synchronized state of at least the first and second computing devices.” The Examiner points to Johnson at Column 25, lines 3-5, which recites, “SNTP (Simple Network Time Protocol) is used to keep operator stations and similar non-process data producers in sync.” There is no teaching or suggestion in the cited portion of Johnson of any computing device using a synchronized state of itself and a second computing device to selectively initiate execution of a software application by itself or the second computing device. Thus, dependent claims 3, 9, 13 and 19 are not anticipated by Johnson for the additional reason that Johnson does not teach or suggest “the state is a synchronized state of at least the first and second computing devices,” as recited.

Dependent claims 4 and 14 recite, “wherein the state includes information for identifying a group of software applications executed by the first and second computing devices.” The Examiner points to Column 16, lines 6-9. As noted above, the cited portion of Johnson merely notes that “native devices record their current state of operation” on bulletin boards. There is no indication that the state information includes “information for identifying a group of software applications,” as recited. Thus, Johnson does not anticipate claims 4 and 14 for this additional reason.

Dependent claims 5 and 15 recite, “wherein the state indicates whether the software application has an associated listening socket.” The Examiner points to Column 6, lines 38-39 and Column 22, line 56. The cited portions of Johnson merely indicate that the enterprise server 52 runs Java code and that devices may register to receive certain types of information. There is no suggestion in either cited portion that the subscriber facility uses “an associated listening *socket*” or that this information is part of the state information that is used by a first

computing device to selectively initiate execution of a software application by one of itself or a second computing device. Accordingly, dependent claims 5 and 15 are not anticipated by Johnson for the additional reason that Johnson does not teach or suggest “wherein the state indicates whether the software application has an associated listening socket,” as recited.

Dependent claims 6 recites, “the software application is a first software application, and wherein the first computing device is configured to, in response to execution of the first software application and the state, selectively initiating execution of a second software application by the second computing device.” Dependent claim 16 contains similar language. The Examiner points to the description of the native configurator contained at Column 16, lines 55-62 and discussed above with reference to the independent claims. Presumably, the Examiner contends that the native configurator is the first computing device and either the “service” or the “foreign device” is the second computing device. However, Johnson only mentions the native configurator as *configuring* a native device. Johnson does not indicate or suggest that the native configurator initiates execution of any *software application* by the “service” or by the “foreign device,” let alone initiation of *a second software application* in response to execution of a first software application and a state of either the native configurator or of the service or foreign device. Accordingly, Johnson does not anticipate claims 6 and 16 for the additional reason that Johnson does not teach or suggest “the first computing device is configured to, in response to execution of the first software application and the state, selectively initiating execution of a second software application by the second computing device,” as recited.

Claim 10 additionally recites, “wherein the first computing device is for coordinating a communication of information between the software application and the software object, even if the software object is executed by the second computing device.” Claim 20 contains similar language. The Examiner points to Column 25, lines 7-9, which discusses controllers involved in controlling synchronization. The Examiner appears to be arbitrarily combining separate components of Johnson in an attempt to show that Johnson teaches the claimed first computing device. While the “controllers” of Johnson may “coordinate time updates” there is no suggestion that any of these controllers are the same device (*i.e.* the native configurator) that the Examiner has apparently identified as the first computing device. For

example, there is no indication that one of these “controllers” selectively initiates execution of *a software object* by itself or another device based on state information of the controller or the other device. Thus, Johnson does not anticipate claims 10 and 20 for the additional reason that Johnson does not teach or suggest a first computing device “coordinating a communication of information between the software application and the software object, even if the software object is executed by the second computing device,” as recited.

New claims 21-35 have been added to claim additional embodiments described in the specification as filed. Please see, e.g., Figures 2-17 of the specification as filed and the accompanying descriptions thereof. These claims also include elements that are not taught, suggested, or motivated by Johnson, such as “a first server configured to ... respond to receipt of a request packet from a client by: initiating by the first processor execution of a software application associated with the request packet when the state table corresponds to a first state; and selectively forwarding the request packet to the second server when the state table is in a second state,” or “means for distributing a client request packet based at least in part on a state of the means for executing a first software application.” Therefore, for reasons similar to those discussed above with regard to independent claims 1, 7, 11 and 17, new claims 21-35 also are not taught, suggested, or motivated by Johnson. Thus, since Johnson does not teach, suggest or motivate one or more elements or acts of each of Applicant’s claims 1-35, claims 1-35 are not anticipated or rendered obvious by Johnson.

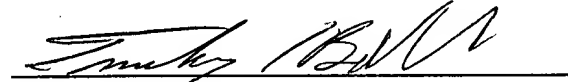
In closing, Applicant respectfully requests the Examiner to enter these amendments and to reconsider this application and its early allowance. The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090. In the event the Examiner finds minor

Application No. 09/873,019  
Reply to Office Action dated October 18, 2004

informalities that can be resolved by telephone conference, the Examiner is urged to contact Applicant's representative at (206) 622-4900.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



Timothy L. Boller

Registration No. 47,435

TLB:rg

Enclosures:

Postcard  
Supplemental Information Disclosure Statement  
Form PTO-1449

701 Fifth Avenue, Suite 6300  
Seattle, Washington 98104-7092  
Phone: (206) 622-4900  
Fax: (206) 682-6031

552745\_1.DOC